

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Supplement to Petition of NPCR, Inc.)	
d/b/a Nextel Partners)	
for Designation as an)	
Eligible Telecommunications Carrier)	
in the State of Virginia)	

COMMENTS OF THE NTELOS TELEPHONE COMPANIES

The NTELOS Telephone Companies submit these comments in response to NPCR, Inc. d/b/a Nextel Partners' ("Nextel") Supplement to Petition for ETC Designation in the State of Virginia. The Supplement was filed by Nextel with the Commission on March 24, 2004.

NTELOS Telephone Inc. (formerly CFW Telephone Inc.) and Roanoke and Botetourt Telephone Company (collectively the "NTELOS Telephone Companies") are Incumbent Local Exchange Carriers ("ILECs") operating in rural areas of Virginia's Shenandoah Valley. Other subsidiaries of their parent company, NTELOS Inc., have extensive wireless operations in Virginia and West Virginia, competing with Nextel and other wireless carriers.

Nextel has modified its original ETC petitions with new information using the FCC's decision in the Virginia Cellular case as the basis for the Supplement.¹ The *Virginia Cellular Order* is essentially functioning as the “de facto” ETC rules for wireless applications unless and until the FCC creates the permanent ETC guidelines advocated by the Joint Board.

NTELOS does not object to the manner in which Nextel has reflected the provisions of the *Virginia Cellular Order*. However, the supplemental material does not resolve NTELOS' core concern regarding the Nextel and other wireless ETC petitions in Virginia. We strongly believe that fundamental questions regarding the future of the Universal Service Fund must be resolved prior to the FCC granting ETC authorizations in the service areas of rural ILECs.

Shortly after the *Virginia Cellular Order* was issued, the Federal-State Joint Board on Universal Service released a February 27, 2004 Recommended Decision in this docket (*Recommended Decision*). The Joint Board recommends “that the Commission limit the scope of high-cost support to a single connection that provides access to the public telephone network.” *Recommended Decision*, ¶ 3. The Joint Board clearly recognizes the negative impact that this change is likely to have on rural ILECs and urges the FCC to “take steps to avoid or mitigate reductions in the amount of high-cost support flowing to rural areas as a result of implementing a primary-line restriction.” *Id.*, ¶ 72.

The Joint Board discusses various ways to “hold harmless” rural carriers from these recommended changes (*Recommended Decision*, ¶¶ 72-80). Using the limited

¹ *Memorandum Opinion and Order* on Petition of Virginia Cellular, LLC for a Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, CC Docket 96-45 (January 22, 2004) (*Virginia Cellular Order*).

information available to them from the *Recommended Decision*, the NTELOS Telephone Companies have done their best to analyze these suggested “hold harmless” mechanisms. We are not convinced that any of them are workable. At least in the near term, the Joint Board’s recommendations greatly increase the uncertainty about the affect of certifying multiple ETCs in a study area served by a rural ILEC.

Rural ILECs serve areas with low population densities where the cost of providing residential telephone service is above the tariffed rate for that service. Universal Service support helps assure these customers that they will have reasonably priced telecommunications services on par with their urban counterparts. The rates that Nextel and other wireless carriers charge for their services are not similarly constrained by regulation.

Rural ILECs have made and continue to make substantial investments in their telecommunications networks and they have been required to demonstrate the costs they incur to provide service in order to receive Universal Service funding. Nextel and other wireless carriers have no such responsibility to demonstrate their actual cost of providing service.

Rural ILECs have carrier of last resort responsibilities. In contrast, as the FCC itself has stated, a wireless carrier “always has the option of relinquishing its ETC designation and its corresponding benefits and obligations to the extent that it is concerned about its long-term ability to provide supported services in the affected areas.” *Virginia Cellular Order*, ¶ 12.

USF funding is not the only means rural ILECs have traditionally utilized to be able to offer affordable service. Another important source of such support, access charges, may also be significantly decreased in the near future.² As the National Association of Regulatory Utility Commissioners stated in the May 5, 2004 Press Release announcing its intercarrier compensation principles, “[a]spects of the current intercarrier compensation system are rapidly becoming unsustainable.” The FCC is considering far-reaching changes to the current compensation regimes in its *Intercarrier Compensation Proceeding*. Press accounts of on-going industry negotiations suggest that the elimination of interstate –and perhaps intrastate - access charges is a potential outcome in that proceeding.³ Until both the Universal Service and the Access Charge pictures for rural ILECs are clearer, it is not in the public interest to designate additional ETCs in study areas served by rural ILECs.

Conclusion

The core purpose of universal service support has always been and continues to be to help telephone companies in high-cost areas to make the investments in infrastructure and to assure that rural customers have affordable, quality telecommunications services.

Without universal service support, the ability of rural ILECs to continue to provide state-of-the-art services at reasonable prices is at risk.

² *Notice of Proposed Rulemaking*, In the Matter of Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92 (April 27, 2001) (*Intercarrier Compensation Proceeding*)

³ See *Telecommunications Reports*, Vol. 70, No. 7 (April 1, 2004) at 3-4.

The *Virginia Cellular Order* and the *Recommended Decision* are not final rulemaking determinations and should not be the basis for certifying a multitude of ETCs in rural ILEC serving areas.

Until the FCC has acted on the *Joint Board Recommendation*, the NTELOS Telephone Companies recommend that the Commission hold in abeyance that portion of the Nextel petition seeking certification in rural ILEC study areas.

Respectfully submitted,

NTELOS Telephone Companies

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CERTIFICATE OF SERVICE

I, Mary McDermott, hereby certify that I caused copies of the foregoing Comments of the NTELOS Telephone Companies on Nextel's Supplemental Petition to be served by First Class Mail, postage prepaid, on May 7, 2004, on the following:

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